GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Smt. Vallepu Nagini, D/o Veera Raghavaiah, Occ: Secondary Grade Teacher, SPSR Nellore District, against the proceedings No.Rc.C5(M)/1546/2013, dated 17.01.2014 of the District Collector, SPSR Nellore, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 140 Dated: 29-08-2018
Read the following:

1. Proceedings of the District Collector, SPSR Nellore District, Rc.C5(M)/1546/2013, dated 17.01.2014.
2. Appeal Petition filed by Smt. Vallepu Nagini, D/o Veera Raghavaiah, Occ: Secondary Grade Teacher, SPSR Nellore District, dt.21.04.2014.
3. Govt. Memo No. 4916/CV.2/2014, dated 28.04.2014.
4. From the District Collector, SPSR Nellore, Lr.No.Rc.C5(M)1546/2013, dt: 26.10.2014 & 23.07.2015.
5. Govt. Memo No.4916/CV.2/2014, dt. 02.05.2016, 05.12.2016, 12.01.2017, 29.05.2017 & 28.11.2017.

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ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders cancelling ST-Yanadi caste certificate obtained from the then Mandal Revenue Officer, Gudur in the year 2000 by Smt. Vallepu Nagini, D/o Veera Raghavaiah.

2. In the reference 2nd read above, Smt. Vallepu Nagini, D/o Veera Raghavaiah, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, SPR Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, SPSR Nellore in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Smt. Vallepu Nagini, D/o Veera Raghavaiah.

4. The said Appeal Petition has been posted for hearing on 14.05.2016, 24.12.2016, 24.01.2017, 17.06.2017 & finally on 16.12.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The Appellate Authority has conducted final hearing on the said appeal petition on 16.12.2017, but the appellant/ counsel for the appellant were not attended for the hearing/ no representation is received, in spite of notice served to the appellant.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings, dated 17.01.2014 of the District Collector, SPSR Nellore, the Appellate Authority is observed that :

I. The appellant in her grounds has stated that the then Mandal Revenue Officer, Gudur was issued caste certificate in favour of the her in the year 2000 on the basis of the school records and verification of the various revenue records of the petitioner and her family members. Further, she has stated that the District Collector, ought to have seen that the mother of the petitioner belongs to S.T. Community (Yanadi) and the father of the petitioner died long back. The petitioner residing with her mother at Guduru village and brought up according to her caste customs, rites, traditions of the S.T. Community. Therefore the order of the Collector is clearly illegal and violation of the A.P.(S.Cs, S.Ts & B.Cs) regulation of issue of community certificates Act 1993 and prior to the order of cancellation the enquiry was not conducted and report not served on the petitioner which is clearly violation principles o natural justice.

[P.T.O]

II. The District Level Scrutiny Committee has observed that after thorough verification the records furnished by the Appellant and opined that the then Mandal Revenue Officer, Gudur has issued caste certificates to the Appellant in a routine manner but not thoroughly verified the anthropological and ethnological traits, rituals, worshiping of deity, customs, mode of marriage, death ceremonies/method of burial of dead bodies etc., of that particular tribe of the individual. With a malafied intention, her family members have obtained certificates from the then Mandal Revenue Officer, Gudur that the Appellant belongs to ST-Yanadi. Further, the Appellant is not in the fold of ST-Yanadi community but they are continuing in Vaddera (BC) Community and the Appellant was not accepted by the tribal society. The surname Vallepu of the Appellant is predominant in Vaddera (BC) Community. Her family members have marital relations with Vaddera (BC) caste people. Further it is observed that before the DLSC, the appellant has not produced any relevant documents in support of her ST-Yanadi community claim except school record. Finally, based on the DLSC findings, the District Collector, SPSR Nellore has cancelled the appellant's ST-Yanadi caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case, the appellant submitted her arguments as per her grounds in appeal petition and stated that the lower authority failed to observe that caste certificate issued in favour of her in the year 2000 on the basis of the school records and her mother belongs to Yanadi ST community and she brought up according to caste customs of ST community and she adopted her mother's caste and proper enquiry was not conducted by the lower authority and prayed to interfere with the lower authority order. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and the said ground is not tenable in the eye of law. It is observed that as seen from the family tree of the appellant it is clearly shows that all her relatives are Vaddera BC persons and their marital relations are with BC persons & the appellant itself also married a Vaddera BC person thus showing their acceptance by the BC community and not by the Yanadi ST community and they are not in the fold of Yanadi ST Community and they were not accepted by the tribal society and the appellant brought up as Vaddera but not as Yanadi. That as per the act, burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case that the appellant except relaying the evidence and documents filed before the lower authority, failed to produce any additional material for re- appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable/ appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, SPSR Nellore District.

V. Further, it is observed that in Circular Memo. No.10956/CV1/97-2, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions general instructions for claiming Community Certificates are as follows:

V. Status of the Off-spring of a couple where one of the spouses is a member of Scheduled Caste and the other that of a Scheduled Tribe.

As regards the status of the off-spring whose father is a member of Scheduled Caste and mother of a Schedule Tribe, the prima-facie presumption is in favour of the child possessing the caste of the father, in the large majority of cases, having regard to the concept of domicile explained in para IV above. Apart from this, it may also be a relevant criterion to see whether the child has been accepted and assimilated in the Scheduled Caste community to which the father belongs. The same principal will also apply to the case of an off-spring whose mother is a member of a Scheduled Caste and father of a Scheduled Tribe. However, each case has to be examined in the light of the attendant facts and circumstances.

[Contd..]

As per the said instructions stated supra, in the instant case, the appellant's mother belongs to ST-Yanadi community and but she is not brought up in the fold of ST-Yanadi community. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Smt. Vallepu Nagini, D/o Veera Raghavaiah, does not deserve any interference. Hence, Proceedings of the District Collector, SPSR Nellore issued vide Rc.C5(M)/1546/2013, dated 17.01.2014, is hereby upheld and the Appeal Petition filed by Smt. Vallepu Nagini, D/o Veera Raghavaiah, is hereby dismissed and the Certificate issued by the Mandal Revenue Officer, Gudur is deemed to be cancelled.

7. The District Collector, SPSR Nellore is directed to take necessary consequential action in the matter.

8. The records (containing Rc.C5(M)/1546/2013, dated 17.01.2014, CF: 52 pages) received from the District Collector, SPSR Nellore through in the reference 4th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, SPSR Nellore (BY RPAD)
(with original records).

Smt.Vallepu Nagini D/o Veera Raghavaiah,
Occ: SGT, MPP School, R/o Marlapudi(V),
Sydhapuram (M), SPSR Nellore District.

Sri V.Narayana Reddy, Advocate,
IC-123, Erramanjil Colony, Somajiguda,
Hyderabad-500082.

Copy to :
The Director, TCR& TI, AP, Amaravathi.

The Revenue Divisional Officer, Guduru Division,
SPSR Nellore District.

The Tahsildar, Guduru Mandal, SPSR Nellore District.
The PS to M(SWE& TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER